

Docket No. 60,469-219  
OT-5094

### REMARKS

Claim 7 is amended above. Applicants respectfully request consideration of this application.

#### Claim 7 is not anticipated by the *Hayashi, et al.* reference

Applicants respectfully submit that the *Hayashi, et al.* reference does not anticipate claim 7.

1. The hoisting machine 12 rests directly upon the items 13A and 13B as is apparent from Figure 2.

2. Therefore, if the Examiner is going to interpret any portion of the *Hayashi, et al.* reference as the two lateral beam members of Applicants' claim 7, the members 13A and 13B would be the only choice. The end bracket 17 is not transverse to the members 13A and 13B. Therefore, the end bracket 17 cannot be the same thing as a termination supporting portion as recited in Applicants' claim 7.

Additionally, the sheave 42 in the *Hayashi, et al.* reference is part of the embodiment of Figures 3 and 4 which is not the same thing as what is described in Figures 1 and 2. The *Hayashi, et al.* reference describes Figures 3 and 4 as being a conventional design whereas Figures 1 and 2 describe what *Hayashi, et al.* consider their inventive design. Applicants respectfully submit that it is not an appropriate interpretation of the reference to translate the sheave 42 from Figure 3 into the embodiment of Figure 1.

Additionally, the traction sheave 11 of the hoisting machine 12 in *Hayashi, et al.*'s Figures 1 and 2 is not vertically aligned with any space between the pieces 13A and 13B. Instead, it is offset to one side as shown in Figure 2. Applicants' machine includes sheaves vertically aligned with a spacing between Applicant's claimed lateral beam members.

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There is no correspondence between the arrangement recited in Applicants' claim 7 and what is shown in the *Hayashi, et al.* reference. There is no *prima facie* case of anticipation.

**There is no *prima facie* case of obviousness against claims 1, 6 and 22 based upon the proposed combination of the *Salmon, et al.* and *Bauer* references.**

The proposed combination does not establish a *prima facie* case of obviousness. Even if the *Salmon, et al.* and *Bauer* references could be combined, the result is not what the Examiner contends and does not establish a *prima facie* case of obviousness. *Bauer* does not teach supporting portions that each comprise a plurality of metal sheets secured together. Therefore, even if the proposed combination could be made, the result is not the same as the claimed invention and there is no *prima facie* case of obviousness. All that *Bauer* says is that the frame 15.1 is "made of sections and a mounting plate 15.2." That does not constitute teaching using a plurality of metal sheets secured together for each of the supporting portions as recited in Applicant's claim 1. Therefore, even if the proposed combination could be made, the result is not the same as Applicant's claimed invention and there is no *prima facie* case of obviousness. Claims 1, 6 and 22 are allowable.

**There is no *prima facie* case of obviousness against Claim 2 based upon the proposed combination of *Salmon, et al.*, *Bauer* and *Morris, et al.***

The proposed combination cannot be made. The Examiner is effectively using the *Morris, et al.* reference to modify the arrangement of the *Bauer* reference in a manner that violates MPEP 2143.01(V) and (VI). The *Bauer* reference requires a particular arrangement of components to achieve its intended purpose and to operate according to its disclosed principle of operation. If one were to rearrange the *Bauer* reference, it would not operate as intended and the required reason for modifying the combined *Salmon, et al.* and *Bauer* references with the

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teachings of *Morris, et al.* does not exist. In other words, the proposed combination cannot be made because it would rearrange the components of the *Bauer* reference in a manner that would interfere with the principle of operation of that reference. The *Bauer* reference specifically requires terminations on a "counterweight side" and an opposite "car side" of the hoistway. The Examiner is proposing to change that configuration to somehow render it consistent with Applicant's claim 2. That cannot be done as explained in MPEP 2143.01.

Additionally, the *Morris, et al.* reference does not provide any suggestion for how to incorporate a second termination supporting portion into a single structure. As acknowledged by the Examiner, the *Bauer* reference specifically separates two different terminations on opposite sides of a hoistway. The *Morris, et al.* reference provides a single location for a plurality of terminations. It does not teach using more than one termination supporting portion but, instead, teaches a way of arranging a pattern of terminations to reduce a cross-sectional area occupied by the ropes at *Morris, et al.*'s hitch plate. Therefore, even if one added the teachings of the *Morris, et al.* reference to the proposed combination of the *Salmon, et al.* and *Bauer* references, the result would not be what the Examiner contends.

The only possible justification for taking the teachings of the *Salmon, et al.*, *Bauer* and *Morris, et al.* references and attempting to combine them in the manner suggested by the Examiner is hindsight reasoning based upon Applicant's disclosure and claims. That cannot be a basis for establishing a *prima facie* case of obviousness and, therefore, none exists against claim 2.

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**There is no *prima facie* case of obviousness against Claims 3 and 8-9 based upon the proposed combination of *Salmon, et al.*, *Bauer* and *de Jong, et al.***

As noted above, *Salmon, et al.* and *Bauer* do not establish a *prima facie* case of obviousness against Claim 1. The proposed addition of the teachings of *de Jong, et al.* does not remedy the defect in the Examiner's proposed combination of *Salmon, et al.* and *Bauer*. Therefore, even if it were possible to make the proposed combination, there is no *prima facie* case of obviousness against claim 2 for the same reasons explained above for why there is no *prima facie* case of obviousness against Claim 1.

**There is no *prima facie* case of obviousness against any of Claims 10 and 13-16 based upon the proposed combination of *Salmon, et al.*, *de Jong, et al.* and *Orrman, et al.***

The proposed combination cannot be made because it would change the principle of operation of the *Salmon, et al.* reference and render it unsuitable for its intended purpose. MPEP 2143.01(V) and (VI) explains that a proposed modification to a reference cannot be made for purposes of attempting to establish a *prima facie* case of obviousness where that change would render the arrangement of the reference unsuitable for its intended purpose or change its principle of operation. As the Examiner acknowledges in the most recent office, the *Salmon, et al.* reference requires a particular angular offset between the sheaves of that reference. What the Examiner does not acknowledge, however, is that modifying the reference in the Examiner's proposed manner would remove that angle from the *Salmon, et al.* arrangement. That cannot be done because then it would no longer work as intended. The only way the *Salmon, et al.* reference can achieve its intended interleaved roping arrangement (i.e., perform its intended function and operate according to its intended principle of operation) is to keep that particular

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angular offset between the sheave axes. If one were to modify the *Salmon, et al.* reference to be consistent with the *de Jong, et al.* reference and have parallel axes between the sheaves, the *Salmon, et al.* arrangement would no longer work.

A proposed modification that renders the teachings of a reference unworkable and unusable for its intended purpose cannot be made. Therefore, there is no *prima facie* case of obviousness and claim 16 and its dependents are allowable.

Applicant believes that this case is in condition for allowance.

Respectfully submitted,

CARLSON, GASKEY & OLDS

By: 

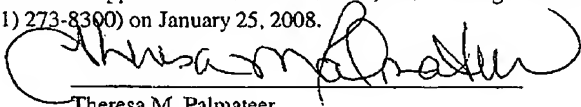
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**CERTIFICATE OF FACSIMILE**

I hereby certify that this Response for Application Serial No. 10/537,605, is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on January 25, 2008.

  
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